

§ 826.37

the matter may order further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 826.37 Decision.

The administrative law judge shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 826.38 Board review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the Board may decide to review the decision on its own initiative, in accordance with subpart H of part 821 for FAA safety enforcement matters appealed under section 609 of the Federal Aviation Act. If neither the applicant nor agency counsel seeks review and the Board does not take review on its own initiative, the initial decision on the application shall become a final decision of the Board 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Board. If review is taken, the Board will issue a final decision on the application or remand the application to the administrative law judge who issued the initial fee award determination for further proceedings.

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§ 826.39 Judicial review.

Judicial review of final Board decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 826.40 Payment of award.

Within 5 days of the Board's service of a final decision granting an award of fees and expenses to an applicant, the Administrator shall transmit to the applicant instructions explaining how the applicant may obtain the award. These instructions may require, but are not limited to, the submission of the following information to the Administrator: a statement that the applicant will not seek review of the decision in the United States courts, bank routing numbers to which the Administrator may transmit payment, and the applicant's tax identification or Social Security number. The Administrator will pay the applicant the amount awarded within 60 days of receiving the necessary information from the applicant, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

[77 FR 63253, Oct. 16, 2012]

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

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